

IN RE: PETITION FOR SPECIAL EXCEPTION
BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE # 89-238X
Baltimore County, Legal Owner,
Community Support Services for the Deaf, Inc., Contract Purchaser
Petitioners

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The Petitioners request approval of a Special Exception to use the herein described property for a Community Care Center, pursuant to Section 1801.1C of the Baltimore County Zoning Regulations, (B.C.Z.R.) as more particularly described on Petitioners' Exhibit 1.

The Petitioner, Baltimore County, Maryland and Community Support Services for the Deaf, Inc., appeared and testified through their attorney, Daniel Murphy. Also appearing and testifying on behalf of the Petitioner was Mr. Chad Casserly, Baltimore Coalition for the Handicapped and Diane Hutto, Coordinator, Community Support Services for the Deaf, Inc. There were no Protestants.

The evidence and testimony in the record establish that the site is a former public school site known as the Hebbville Annex Building. The site was declared surplus property by the Baltimore County Board of Education and returned to Baltimore County. Baltimore County has declared the property surplus and has negotiated arrangements through the Department of Community Development for the Community Care Center. Community Support Services for the Deaf, Inc., is a non-profit private corporation that provides services for deaf individuals. This proposed

site which is zoned D.R. 5.5 and exist in the middle of an established residential neighborhood of predominantly single family dwelling units. The proposed site consist of 1.189 acres of ground and will serve as the headquarters and main operating facility for Community Support Services for the Deaf, Inc. The evidence and testimony also indicates that Community Support Services for the Deaf, Inc. is a private, charitable organization that is licensed by the Maryland State Department of Health and Mental Hygiene.

The proposal is for the subject site to serve as a resource and service center for individuals suffering from a hearing loss or deafness.

This particular location will provide facilities for counseling, supervision and support services for deaf individuals. The site will be physically restored, however, the exterior perimeters of the existing buildings will not be altered in any substantial manner. It is anticipated that the site will service as many as eighty (80) individuals on any given day and will have a staff of approximately twenty (20) individuals. The site will be operated on a Monday through Friday basis with most services offered during a normal business day of 8:00 A.M. through 6:00 P.M. The site complies with all requirements for parking and utilities.

Both of the witnesses for the Petitioner testified to the requirements set forth in Section 502.1 of the Baltimore County Zoning Regulations. All of this evidence is uncontradicted as to these requirements.

The issue in the Special Exception is whether or not the requirements of Section 502 of the B.C.Z.R. have been successfully met

by the Petitioner. The cases clearly establish that "... the appropriate standard to be used in determining whether a requested special exception use would have an adverse affect and, therefore, should be denied is whether there are facts and circumstances that show the particular use, proposed at the particular location, would have any adverse affect above and beyond those inherently associated with such a special exception use irrespective of its location within the zone."

Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 at 1327 (1981).

The Court went on to say in Schultz that,

"... the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But, if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious and illegal." (at pg.1325)

The Petitioner must only show to the satisfaction of the Zoning Commissioner that the proposed use would be conducted without real detriment to the community to meet his burden. See, Turner v. Hammond 270 Md. 41, 310 A.2d 543 (1973). When the Petitioner produces credible and probative evidence on all of the specific issues established by Section 502.1, then a special exception should be granted.

In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the community and would not adversely affect the public good.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone.

Schultz v. Pritts, 432 A2d 1319 (1981).

The proposed use will not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted, with certain restrictions as more fully described below.

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for a Community Care Center pursuant to Section 1801.1C of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
COMMUNITY SUPPORT SERVICES
FOR THE DEAF, INC.
(Type or Print Name)
M. Maureen Shanklin
Signature
101 W. Ridgely Road, Suite 4-B
Lutherville, Maryland 21093
City and State

Attorney for Petitioner:
DANIEL MURPHY
(Type or Print Name)
Daniel Murphy
Signature
188 E. Main Street, P.O. Box 389
Westminster, Maryland 21157
City and State
Attorney's Telephone No.: 876-7371

Legal Owner(s):
BALTIMORE COUNTY
(Type or Print Name)
Signature
(Type or Print Name)
Signature
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
M. MAUREEN SHANKLIN (or Diane Hutto)
101 W. Ridgely Road, Suite 4-B
Lutherville, MD 21093
561-5888
Address
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day of December, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 16th day of December, 1988, at 11 o'clock A.M.

Zoning Commissioner of Baltimore County

Z.C.O.-No. 1

(over)

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner of Baltimore County, Maryland, this 4th day of January, 1989 that the Petition for Special Exception to use the herein described property for a Community Care Center, pursuant to Section 1801.1C of the B.C.Z.R., in accordance with Petitioners' Exhibit 1, be and the same is hereby GRANTED, subject to the following restrictions:

- The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- The special exception granted herein is for the Petitioner only and is not transferable to any future owner or successor in title without another public hearing to review the continued special exception use.
- The Petitioner shall provide a landscape plan to the Office of Current Planning for approval by the Baltimore County Landscape Planner and said landscape plan shall then be submitted to the Zoning Commissioner for approval. The approved landscape plan shall become a permanent part of the record and file in this matter.
- The Petitioner is hereby placed on notice of the requirements of Section 502.5 of the B.C.Z.R. which requires that any special exception

granting a community care center is statutorily limited to a duration of five years and that the Petitioner is required as a matter of law to petition for renewal of that special exception no later than 3 months prior to the expiration of the special exception originally granted.

J. Robert Haines
ZONING COMMISSIONER
OF BALTIMORE COUNTY

JRH:mmm
cc: Peoples Counsel
Daniel Murphy, Esquire, 188 E. Main St., P.O. Box 389, Westminster, Maryland, 21157
Les Pittler, Director, Dept. of Community Development, Court House Ms. Diane Hutto, Coordinator, Community Support Services for the Deaf, Inc., 101 West Ridgely Road, Lutherville, Maryland 21093
Ms. M. Maureen Shanklin, Su. 4-B Community Support Services for the Deaf, Inc., 101 West Ridgely Road, Lutherville, Maryland 21093
Mr. Chad Casserly, Baltimore Coalition for the Handicapped, Suite 800, One Investment Place, Towson, Maryland.

Daniel Murphy, Esquire
188 E. Main Street
P.O. Box 389
Westminster, Maryland 21157

RE: Petition for Special Exception
Case #88-238X
Community Support Services for the Deaf, Inc.

Dear Mr. Murphy:

Enclosed please find the decision rendered in the above captioned case. The Petition has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to my party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mmm
cc: Peoples Counsel
Les Pittler, Director, Dept. of Community Development, Court House Ms. Diane Hutto, Coordinator, Community Support Services for the Deaf, Inc., 101 West Ridgely Road, Lutherville, Maryland 21093
Ms. M. Maureen Shanklin, Su. 4-B Community Support Services for the Deaf, Inc., 101 West Ridgely Road, Lutherville, Maryland 21093
Mr. Chad Casserly, Baltimore Coalition for the Handicapped, Suite 800, One Investment Place, Towson, Maryland

89-238-X
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Your petition has been received and accepted for filing this
15th day of November, 1988.

Community Support Serv.
the Deaf, Inc./C.P.
Baltimore County, Md.
Petitioner: Daniel Murphy
Attorney: Received by: J. Robert Haines
Chairman, Zoning Plans
Advisory Committee

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building, Suite 406
Towson, Maryland 21204
(301) 887-3351

November 25, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

ZAC - Meeting of November 15, 1988
Item Nos. 152, 183, 184, 186, 187, 188, 189, and 190.

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 152, 183, 184, 186, 187, 188, 189, and 190.

Michael S. Flahiger
Traffic Engineer Associate II

MSE/lw

COMMUNITY SUPPORT SERVICES for the DEAF, INC.
(301) 561-5555
101 West Ridgely Road • Suite 4B • Lutherville, Maryland 21093

November 9, 1988

Mr. J. Robert Haines
Zoning Commissioner
Baltimore County Office of Planning & Zoning
County Office Building, Room 406
Towson, MD 21204

Re: Hebbville Annex - #183

Dear Mr. Haines:

Thank you for your consideration of this agency's request to waive the filing fee regarding our petition for Special Exception. I am enclosing a check for \$100 with this letter so that a hearing date may be set.

We would appreciate any support you can provide in establishing the date for the hearing as soon as possible. We have met with the neighborhood association to discuss the proposed project and were received graciously. I have enclosed copies of their support letters for your records.

Again, thank you for your assistance with this project. Your consideration is greatly appreciated.

Sincerely,

Diane Hutto

Diane Hutto
Coordinator of Special Projects

DH/mas

cc: Frank Robey
J. Timothy Fagan
Tim Harrison
Les Pittler

RECEIVED
NOV 14 1988
ZONING OFFICE

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 6, 1988

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

ooo

Daniel Murphy, Esquire
188 East Main Street
P.O. Box 389
Westminster, MD 21157

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

RE: Item No. 183; Case No. 89-238-X
Petitioner: Contract Purchaser - Community Support Services for the Deaf, Inc.
Legal Owner - Baltimore County
Petition for Special Exception

Dear Mr. Murphy:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:scj

Enclosures

HEBBVILLE COMMUNITY ASSOCIATION
3163 GARTSIDE AVENUE
BALTIMORE, MARYLAND 21207
(301) 944-0062

August 29, 1988

Honorable Melvin G. Mintz
Councilman, Second District
County Council of Baltimore County
Court House
Towson, Maryland 21204

Dear Mr. Mintz:

On Thursday, August 18th, the Hebbville Community Association held a special meeting to discuss the use of the former Hebbville Career Center. Diane Hutto, Community Support Services for the Deaf and Chad Casserly, Coalition for Handicapped Persons, very adequately stated the proposed use of the facility as a day center for the hearing impaired. The members of our Association were extremely pleased that the building would be renovated and used for such a worthy purpose.

A motion was made by The Association to support the use of the former Hebbville Career Center in the capacity of a day center for the deaf with the remaining acres to be retained as open space available to be used by the community. The motion passed unanimously.

The members of the Hebbville Community Association wish to express our gratitude to you, Mr. Mintz, Mr. Pittler and all who helped find a suitable use for this Hebbville landmark. We will be anxiously following the course of events until the center becomes a reality.

Sincerely,

Betty G. Young
President

cc: Mr. Leslie M. Pittler
Ms. Diane Hutto
Mr. Chad Casserly

COMMUNITY SUPPORT SERVICES for the DEAF, INC.

• Suite 4B
101 West Ridgely Road
Lutherville, Maryland 21093

November 2, 1988

Mr. J. Robert Haines, Zoning Commissioner
Baltimore County Zoning Office
County Office Building, Room 406
Towson, Maryland 21204

Dear Mr. Haines:

Enclosed please find three copies of a petition for special exception (zoning item #183) for this agency to use the Hebbville Annex. Our attorney, Dan Murphy, has already submitted the special exception plan with John Sullivan as of November 1, 1988.

I would like to request a waiver of the \$100 filing fee if possible, given this agency's non-profit status and the fact that the site is a County property. Any consideration that you might give toward this end will be greatly appreciated.

Please let me know if you require further information. Thank you again for your consideration.

Very truly yours,

Diane T. Hutto
Coordinator
Special Projects

enclosures

cc: Dan Murphy
Frank Robey
Les Pittler
ADMINISTRATIVE OFFICE: Tim Harrison
INDEPENDENT LIVING SUPPORT PROGRAM (301) 343-3888 (voice) (301) 343-3847 (TDD)

VOCATIONAL SERVICES PROGRAM (301) 343-3777 (voice) (301) 343-3777 (TDD)



Liberty Road Community Council, Inc.
6834 ALTER STREET • BALTIMORE, MARYLAND 21207 • (301) 484-9387

September 1, 1988

Honorable Melvin G. Mintz
Councilman, Second District
County Council, Baltimore County Courthouse
Towson, Maryland 21204

Dear Mel:

Along with other members of the Liberty Road Community Council, I attended the Thursday, 18th of August, meeting of the Hebbville Community Association to hear the discussion concerning the Old Hebbville School (Hebbville Career Center).

We were very impressed with the presentation given by Chad Casserly, Coalition for Handicapped Persons and Diane Hutto, Community Support Services for the Deaf. Their plans for this community based building and kindness in offering its use for the Community Association's gathering in the evening showed concern for community support and a great future plan for being a good neighbor.

A motion to support the renovation of the school for a day center for the hearing impaired, using 1 acre of land, with the remainder of the 3.3 acreage being left as open space under the jurisdiction of the Department of Parks and Recreation, was duly seconded and approved by the members present.

I will be unable to attend the meeting on the 8th and 7th of September, 1988, and I am relying on you for your continued support to keep this small piece of Baltimore County as open space.

Liberty Road Community Council wishes to express our gratitude to you, Mel, Executive Rasmussen, Mr. Pittler, and others who have worked so diligently to preserve this Hebbville landmark, and in doing so helping us to continue to stabilize the community.

I will be very anxious to hear the final report and pray that the Center will become a reality.

Sincerely yours,

Ruth B. Swift
Ruth B. Swift, President
Liberty Road Community Council

cc: Executive Rasmussen
Mr. Leslie M. Pittler
Ms. Diane Hutto
Mr. Chad Casserly
Mrs. Betty Young
Coalition of Communities Working Together for Progress

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

November 3, 1988

Daniel Murphy, Esquire
318 Cherry Chapel Road
Reisterstown, Maryland 21136

RE: Petition for a Special Exception
Item No. 183
Hebbville Annex School
2nd Election District

Dear Mr. Murphy:

I understand your desire to rush this petition as quickly as possible thru an Early Hearing request letter to the Zoning Commissioner. However, as I stated on your November 1st petition appointment, this matter can proceed no further until three signed copies of the petition and the \$100.00 filing fee are received. If you have any questions, please do not hesitate to call me at 494-3391.

Very truly yours,

JOHN J. SULLIVAN, JR.
Planning and Zoning Associate III

for J. ROBERT HAINES
Zoning Commissioner

JJSjr/ger

cc: Dennis Rasmussen, County Executive
Frank C. Robey, Jr., Administrative Officer
J. Timothy Fagan, Deputy Administrative Officer
Leslie M. Pittler, Director, Department of Community Development
File

88-057

Baltimore County
Department of Public Works
Towson, Maryland 21204

January 9, 1990

Gene L. Neff, P.E.
Director

Ms. Diane T. Hutto
Coordinator, Special Projects
Community Support Services for the Deaf, Inc
3113 Richwood Avenue
Baltimore, Maryland 21207
597-8780

RE: Hebbville School Annex

Dear Ms. Hutto:

The County Review Group staff met on January 8, 1990, to consider the plan submitted for review.

The submitted plan was determined to be a "Plan Refinement". The following agencies would like to comment on the plan:

Zoning
Developers Engineering
Traffic Engineering

All other agencies present had no comment on the plan.

Please submit eight copies of the plan to be signed and I will distribute the copies to the above agencies. These agencies will review the plan and will submit comments to me within the next two weeks. If any agency comment requires a plan change by you, your office will be contacted to pick up the comments at this office.

Also please note that a letter needs to be submitted to Mr. Haines, the Zoning Commissioner, indicating that the new plan is within the spirit and intent of the original Zoning case.

If you have any questions about this procedure, do not hesitate to call Peter A. Paff at 887-3340.

Sincerely,

David L. Thomas
David L. Thomas, P.E.
Assistant Chief
Bureau of Public Services

DLT:PAP/s
cc: CRG Staff
file



Dennis F. Rasmussen
County Executive

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Al Wirth - SWM
Bob Bowling - Dev. Eng.
Frank Fisher - Current Planning
Rahim Famili - Traffic Engineering
Larry Pilson - DEPRM
Dave Flowers - Critical Areas
Carl Richards - Zoning
Capt. Kelly - Fire Department
Pat Kincer - Rec. & Parks
Larry Brocato - SHA
Rocky Powell - EIRS

DATE: 2/8/90

FROM: Peter A. Paff Bureau of Public Services

SUBJECT: Previously Approved C.R.G. - Refinement

mtg of 1/8/90

Hebbville School Annex

To John L.
2/8/90 uon

Please review the attached for concurrence with current development regulations to allow for an extension of previously approved C.R.G. plan. Kindly return this cover letter with your comments and the attached print by 2/24/90

SEE OTHER SIDE FOR COMMENTS

PAP
Attachment
cc: File

E-444
89-238-X

C.R.G. PLAN REFINEMENT

Plan Date: 2/7/90
Comments Due: 2/26/90

HEBBVILLE SCHOOL ANNEX

Location: NE corner of Richwood and Elmore Avenue
Zoning Case #89-238-X

Though the plan appears to be in general conformance with the Order and restrictions as set forth in Zoning Case #89-238-X, the following comments must be addressed prior to zoning approval:

1. As stated in the letter dated 1/9/90 from Mr. David Thomas of the Department of Public Works to Ms. Diane T. Hutto, a letter seeking the approval of the new plan (along with a red-lined plan copy noting all changes) must be submitted to J. Robert Haines, Zoning Commissioner, for a determination that the new plan is within the spirit and intent of the original zoning case. A copy of this response must be included on the plan and in the zoning case file.
2. Restriction #3 required that a landscape plan be approved by the Baltimore County Landscape Planner and then submitted to the Zoning Commissioner for approval and then become a permanent part of the record and file.
3. Note on the plan that all paving will be of a durable, dustless surface (name type) and permanently striped and show a typical aisle and parking space dimension.

JOHN L. LEWIS
PLANNING & ZONING ASSOCIATE III

JLL:scj